

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1553 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJ STATE ROAD TRANSPORT CORPN

Versus

DEVJI RANCHHOD VADHIA

Appearance:

MR Mazgaonkar for Mr. SN SHELAT for Petitioners
MR AJ SHASTRI for the Respondent.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 22/07/98

ORAL JUDGEMENT

This petitioner Corporation has been filed the present petition for quashing the judgment and order dated 30th September, 1985 passed by the Assistant Judge, Porbandar dismissing Regular Civil Appeal No. 16 of 1982 and confirming the judgment and order dated 4th March, 1980 passed in Payment of Wages Application No. 2 of 1981 by the learned Civil Judge (SD), Porbandar and

Authority under Payment of Wages Act, whereby the petitioner was directed to pay the amount of Rs. 11,660/- of full wages for a period from 15.1.79 to 3.1.1981 and regarding the claim of the respondent-original applicant for a period from 29.5.78 to 14.1.79, the petitioner-Corporation was directed to pay the same on the basis that the respondent-original applicant is entitled to wages of full pay for a period of 120 days and 1/2 pay for the rest of the period and petitioner was also directed to pay full amount on or before 31st March, 1982.

2. The respondent-original applicant was working as a conductor in the petitioner Corporation. He went on medical leave from 29.5.78 to 14.1.79 due to some trouble in his eyes on 15.1.79. He resumed his duties, but no work was allotted to him. Later on he was directed to appear before the hospital for a fitness certificate. He was medically examined in November, 1979 and he was found unfit for the post of a conductor, but he was found fit for the post of a peon or a helper. By a letter dated 7.8.80 of the petitioner, the respondent was required to give option and to join the duty either as a peon or a helper. The respondent opted to serve the department as a peon by his letter dated 16.8.81. Then he was asked to resume his duties at Porbandar by a letter dated 6.1.81. Accordingly, he resumed duties as peon on 8th January, 1981.

3. Both the parties led their evidence before the authority concerned and the authority concerned came to the conclusion that the respondent was entitled for payment of Rs. 11,660/- as full wages for a period from 15.1.79 to 3.1.1981 and he was also found entitled to full wages for a period of 120 days and one half wages for rest of the period in the sickness period from 29.5.78 to 14.1.1979.

4. Both the Authorities below have found that the respondent had remained on medical leave for the treatment of his eyes from 29.5.78 to 14.1.79 and necessary certificates were produced by the respondent at the relevant time and the respondent resumed his duties with effect from 15.1.79, but no work was allotted to him though the respondent was found unfit for the post of conductor on the medical check up in November, 1979 and he was found fit for the peon or helper. Accordingly, he had opted to serve as a peon and he had resumed duties from 8.1.81 as a peon.

5. The contention of the learned counsel for the petitioner is that the authorities below have overlooked the fact that the respondent had not worked at all during the period for which the respondent preferred his claim for the wages and the respondent had not submitted any leave report nor had he submitted any certificate for the period from 14.6.78 to 14.12.78 and 11.2.79 to 7.1.81. It is further contended that both the authorities below have committed an error in upholding the claim of the respondent on his bare assertion that he attended the office from 15.1.79 to 3.1.81. There was no evidence to show that he had worked in the office or that he had signed the muster roll.

6. I have considered the submissions made on behalf of the parties and have gone through the impugned orders of the authorities below. This is a petition under Article 227 of the Constitution of India. This Court has only supervisory powers. The lower authorities have arrived at the findings on the basis of the evidence on record. If the findings arrived at are on the basis of the evidence on record, this Court cannot interfere with the same only on the ground that the findings of the lower authorities are erroneous. The learned advocate for the petitioner could not point out any legal or jurisdictional error in the impugned orders. He could not point out that the authorities below have exceeded the jurisdiction vested in them, calling for the interference by this Court.

7. In view of the above position, I do not find any merit in his petition. Accordingly the petition is dismissed. The orders passed by both the lower authorities are hereby confirmed. Rule is made absolute accordingly with no order as to costs. The respondent is permitted to withdraw the amount deposited by the petitioner-Corporation pursuant to the order of this Court on 4.7.88.

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